DUTY TO REHABILITATE
ASSESSING REPARATIONS
OF FORMER POLITICAL PRISONERS
IN UZBEKISTAN
Politically motivated imprisonment is a widespread practice across Central Asia, and as the practice continues, the number of people who were once prisoners of conscience but have since been released from detention is growing. This growth is particularly evident in countries that have undergone recent political transitions, such as Uzbekistan. In our report, “Duty to Rehabilitate: Assessing Reparations of Former Political Prisoners in Kazakhstan and Uzbekistan,” Freedom Now assesses whether Uzbekistan and Kazakhstan are currently meeting their international obligations to provide rehabilitation (also called “reparations” under international law) to former prisoners of conscience, and if they are not, in what ways these two countries are failing, and how can domestic rehabilitation frameworks be adapted to ensure these governments bring their practices in line with their international obligations. This summary provides an overview of the report’s findings and recommendations concerning Uzbekistan.

PRISONERS OF CONSCIENCE

A prisoner of conscience is a person detained for their political, religious, or other beliefs or because of their ethnic origin, sex, sexual orientation, color, language, national or social origin, economic status, birth, or other status—who have not used or advocated violence.

In this report, the term “former prisoner of conscience” is used to describe a person who was a prisoner of conscience during their detention but has since been released from detention.

The report finds that the current rehabilitation framework in Uzbekistan fails to meet the state’s international obligations. Our analysis of Uzbekistan’s domestic legal framework combined with interviews of former prisoners of conscience in Uzbekistan reveals deficiencies in law and practice that directly violate the right to reparations for former prisoners of conscience.
Uzbekistan is party to international human rights treaties that impose an obligation to provide full reparations for violations of international human rights law. The main source of Uzbekistan’s international human rights obligations is the state’s treaty commitments, among them the International Covenant on Civil and Political Rights (“ICCPR”), which requires Uzbekistan to protect the rights to freedom of movement, freedom of religion, freedom of expression, freedom of assembly, freedom of association, and political participation. Within the ICCPR the principle that imprisoning individuals on the basis of the exercise of their civil or political rights is a violation of human rights is clearly articulated. The ICCPR also prohibits discriminatory application of laws, arbitrary arrest and detention, and torture, all human rights issues that often arise in prisoner of conscience cases.

The right to reparation for violations of international law is a longstanding norm of international law, and this right is protected under international human rights law. The right derives from numerous sources of international law, including treaties and general principles of international law.

Both states and international human rights bodies have recognized that the obligation to provide full reparations includes the requirement to issue compensation, restitution, rehabilitation, satisfaction, and guarantees of non-repetition¹. Accordingly, in the event of politically motivated detention that amounts to a violation of international human rights law, the government of Uzbekistan maintains an obligation to repair the injury to the victim by providing, where appropriate, compensation to repair monetary injuries, restitution of any deprived rights, rehabilitation through the provision of medical or social services, satisfaction by way of symbolic acknowledgements of wrongdoing on behalf of the government, and guarantees that similar violations will not occur.

Uzbekistan law provides for the state to make reparations to former detainees when certain aspects of their detention are determined to be unlawful. Current Uzbekistan law establishes a right to rehabilitation under three separate areas of law. The different legal bases vary in scope of application and type of rehabilitation. The legal grounds for rehabilitation are divided into three different categories below based on the area of law that gives rise to the grounds for rehabilitation:
This category, created under the Criminal Procedure Code Articles 83 and 301, includes people who have been unlawfully charged, arrested, jailed, put under house arrest, or otherwise detained. This category applies to people who are acquitted and to people who are suspected, accused, or tried, but determined to be innocent on the grounds that either the allegations were not substantiated, the absence of a crime, or the suspect or the accused was proved not to have been involved in the crime. Article 303 also allows partial rehabilitation for people who, after serving a criminal sentence, have had a reviewing court overturn the original conviction, either in whole or in part, such that the person has already served more time than their new conviction requires.

This category, created under the Administrative Code Article 324, includes people who were convicted on administrative charges but were unlawfully charged and sentenced to detention in custody.

This category, defined under Presidential Order p-5598, includes people who have demonstrated that they were victims of Soviet political repression (in Uzbek: qatag'on). To qualify for this category, a court must find that the initial criminal conviction was unfounded and acquit the individual of all charges in the same procedure as an ordinary wrongful trial.

Prisoners of conscience that fall within the scope of these legal provisions have a claim to reparations from the government under Uzbekistan law. Other possible grounds for rehabilitation that are not identified under the above groups—such as being granted amnesty, pardon, or a mitigation of punishment—do not qualify individuals to seek rehabilitation.

Uzbekistan’s current rehabilitation program is not structured in a way that fully ensures rehabilitation for victims of wrongful detention, and as a result, the framework does not meet international standards on reparations.

Because many former prisoners of conscience are released after serving the term of their sentence, and they are considered, from a domestic legal perspective, guilty of committing a crime under Uzbekistan law, Uzbekistan legislation categorically excludes them from rehabilitation. If a former prisoner of conscience has already exhausted all of their domestic appeals, there are no grounds under Uzbekistan criminal procedure for rehabilitation.
entitle them to reopen their cases. Although Uzbekistan law does permit the re-opening of criminal proceedings on the basis of “newly discovered evidence,” prisoners of conscience often will not have new evidence to raise that was not already presented at trial, which would foreclose this avenue. Other avenues to reopen criminal cases require that either the Chairman of the Supreme Court or Prosecutor General file to have the case reconsidered in the Supreme Court, which is a discretionary process and does not guarantee a right to reopen a case for convicts2. As a result, many former prisoners of conscience fail to have their case reopened after petitioning the Supreme Court or Prosecutor General.

Even if released prisoners of conscience were able to reopen their cases, many were forced, as a condition of release, to sign formal documentation accepting guilt for their alleged crimes and asking for forgiveness3. The government uses formal admissions of guilt as evidence of the commission of a crime, and as a result, signing these admissions effectively precludes former prisoners from obtaining rehabilitation.

Although a modest number of former prisoners of conscience have been recognized as entitled to rehabilitation for wrongful detention in Uzbekistan, those who qualify have not received the full amount of compensation requested for material damages resulting from detention. For example, Chuyan Mamtkulov, a human rights defender who spent around six years in prison on trumped-up charges, sought compensation in the amount of 500 million sums after the Regional Criminal Court of Qashqadarya found that there was no evidence that he committed a crime. However, he only received 60 million sums (approximately $6,000 USD), a far smaller amount than he was due for the years he spent in detention.

Interviews of ten former Uzbekistan prisoners of conscience conducted for the report reveal numerous rehabilitation-related needs that are currently unmet by Uzbekistan’s existing rehabilitation framework and practice. Interviewees report that imprisonment caused them significant damages from lost employment, lost businesses, seized property, damaged property, torture and ill-treatment, injuries from medical neglect, legal fees and court costs, the costs of prison visits, and costs incurred by their families for sending food and hygienic support. Furthermore, some interviewees continue to face restrictions on numerous rights and privileges—including the right to register an NGO, the right to travel, the ability to obtain certain occupational licenses, and the ability to work in certain professions—despite the fact that Uzbekistan is obliged to reinstate these rights after release from imprisonment.

All but one of the interviewees in Uzbekistan reported needing ongoing medical or psychological treatment due to their imprisonment, however, no interviewee, including the one who was legally entitled to receive reparations under domestic law, reported being able to access any government medical or psychological support after release, despite several seeking support from the Uzbekistan government’s post-release services. Although Uzbekistan also purports to provide post-release support services, including medical, housing, and other forms of social support to all newly released prisoners, many former prisoners of conscience report that these government services can be difficult, if not impossible, to obtain.

PROPOSALS FOR REFORM

The Uzbekistan government’s failure to address the rehabilitation needs of former prisoners of conscience is evidence that, even after releasing prisoners of conscience, the government is not fulfilling its international obligations to provide full reparations for the violation of their human rights. However, there are several improvements Uzbekistan can make to their law and practice to ensure that former prisoners of conscience are able to access the reparations that are required under the government’s international obligations.

In terms of substantive legal reforms, we recommend that Uzbekistan adopt the reforms listed below into law.

**Incorporate “Prisoner of Conscience” into Legal Framework and into Political Dialogue**

Uzbekistan does not use “prisoner of conscience” to guide legislation and policy, further contributing to the neglect of the rehabilitation rights of prisoners of conscience. Uzbekistan should adopt the practice of employing the term in relation to the provision of rehabilitation of people detained for the exercise of their civil and political rights.

**Guarantee a General “Right to Rehabilitation”**

Uzbekistan should add provisions guaranteeing a general, legally enforceable right to rehabilitation for prisoners of conscience that is not conditioned on the acquittal of a victim’s criminal sentence. Ensure that the right to rehabilitation is enforceable by victims in multiple fora, including in criminal, civil, and administrative proceedings.

**End the Use of Discretionary and Inherently Discriminatory Criminal Code Provisions**

Uzbekistan should repeal criminal and administrative code provisions that are too vague and overboard, such that they may be discriminatorily applied to prisoners of conscience, such as certain fake news laws or anti-extremism provisions. Additionally, Uzbekistan should repeal criminal code provisions that create prisoners of conscience in virtue of their inherently discriminatory application, such as Criminal Code Article 120. Moreover, the Uzbekistan should guarantee a right to rehabilitation for all individuals prosecuted under inherently discriminatory laws.

**Improve Safeguards Against Coerced Confessions**

The issue of coerced confessions has been present in Uzbekistan. Preventing coerced confessions will remove an additional barrier that prisoners of conscience face in obtaining rehabilitation. Uzbekistan should adopt practices protecting against coerced confessions, such as prohibiting interrogating suspects without an independent attorney present, ensuring that all confessions are provided in the signee’s language, and investigating and prosecuting all reports of torture and ill-treatment while suspects are in pre-trial custody.
In terms of procedural reforms, we recommend that Uzbekistan make the following changes to the procedural implementation of rehabilitation.

**End Admissions of Guilt for Parole, Amnesty, or Pardons**

Uzbekistan should end the practice of requiring an admission of guilt to obtain early release. Instead, condition release on factors related to likelihood of recidivism and behavior while in detention.

In terms of procedural reforms, we recommend that Uzbekistan make the following changes to the procedural implementation of rehabilitation.

**Permit a Civil Rehabilitation Claim Without Prior Acquittal**

Allow civil courts to review rehabilitation cases regardless of the status of criminal proceedings. Ensure that the criminal proceedings do not prejudice civil rehabilitation proceedings.

**Create Processes for Reversing Admissions of Guilt**

Uzbekistan should establish procedures that allow individuals to legally invalidate an admission of guilt that was signed as a condition of early release or duress. Alternatively, create evidentiary rules that explicitly exclude such admissions from any future legal proceedings, particularly those concerning rehabilitation.

**Expand the Right to Reopen Criminal Cases**

Grant former prisoners the right to reopen criminal cases on grounds other than new evidence, such as where the former prisoner can show politically motivated prosecution, prosecution under inherently discriminatory charges, and the existence of a decision from an international human rights tribunal finding that the individual’s detention violated human rights law.

**Ensure the Preservation of Records Concerning Former Prisoners of Conscience**

Copies of all records of criminal proceedings should be made readily available to suspects, defendants, convicts, and their families. In addition, all records concerning a person in detention should be preserved for the duration of their detention and made available to that person at their request. Permanently preserve records concerning individuals who have been found to be wrongfully detained by international human rights bodies.

In addition to legal and procedural reforms, more systemic change is necessary to ensure that Uzbekistan recognizes the harm caused to prisoners of conscience by its violation of their rights, and compensates them in accordance with its international obligations. We recommend that Uzbekistan implement an independent rehabilitation procedure to review the eligibility of political prisoners for rehabilitation and to ensure that former prisoner of conscience receive full rehabilitation. The structure of such a procedure could be easily adapted from the model currently in use to compensate for Soviet-era repression. Such a model need only be expanded in scope of application and in scope of reparations awards to address rehabilitation needs of modern-day political prisoners.

Any such procedure should have the responsibility to evaluate cases of former political prisoners and determine their individual reparation and rehabilitation needs; to receive information about an alleged case of a prisoner of conscience from former prisoners or their legal representatives; to have the authority to petition the court to
Adopting and effectively implementing the above reform recommendations will begin the process of bringing Uzbekistan more closely in line with its international commitments to provide full reparations for the violation of the human rights of former prisoners of conscience. Until more action is taken, the human rights violations committed against prisoners of conscience, and the negative impact on them and their families, will linger long past their release from government detention. Without full rehabilitation, the job of righting past wrongs against former prisoners of conscience is incomplete.

Our analysis of the domestic legal framework combined with interviews of former prisoners of conscience in Uzbekistan reveals that the government is exhibiting deficiencies in law and practice that have directly contributed to the violation of the right to reparations for former prisoners of conscience. We conclude that the current rehabilitation framework and practice in Uzbekistan fail meet the government’s international obligations.

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